REMARKS

The Office Action dated September 10, 2004, has been received and carefully considered. In this response, claims 9-15 have been added and claims 2 and 8 have been amended. Entry of added claims 9-15, and the amendments to claims 2 and 8 is respectfully requested. Reconsideration of the outstanding rejection in the present application is also respectfully requested based on the following remarks.

I. THE ANTICIPATION REJECTION OF CLAIMS 2-8

On page 2 of the Office Action, claims 2-8 were rejected under 35 U.S.C. § 102(b) as being anticipated by Czech et al. (U.S. Patent No. 5,180,275). This rejection is hereby respectfully traversed.

Under 35 U.S.C. § 102, the Patent Office bears the burden of presenting at least a prima facie case of anticipation. In re Sun, 31 USPQ2d 1451, 1453 (Fed. Cir. 1993) (unpublished). Anticipation requires that a prior art reference disclose, either expressly or under the principles of inherency, each and every element of the claimed invention. Id.. "In addition, the prior art reference must be enabling." Akzo N.V. v. U.S. International Trade Commission, 808 F.2d 1471, 1479, 1 USPQ2d 1241, 1245 (Fed. Cir. 1986), cert. denied, 482 U.S. 909 (1987). That is, the prior art reference must sufficiently describe the

claimed invention so as to have placed the public in possession of it. In re Donohue, 766 F.2d 531, 533, 226 USPQ 619, 621 (Fed. Cir. 1985). "Such possession is effected if one of ordinary skill in the art could have combined the publication's description of the invention with his own knowledge to make the claimed invention." Id..

The Examiner asserts that Czech et al. teaches the present invention as claimed. Specifically, the Examiner asserts that Czech et al. discloses a lifting apparatus for transferring a user to and from a seat of a vehicle, the lifting apparatus (10; Figs. 2-6) comprising: a mounting and support assembly (22, 23) for attachment to a chassis of the vehicle; an extension arm assembly supported by the mounting and support assembly such that the extension arm is located substantially behind the vehicle seat (21); and a support member (8) attached to the extension arm assembly for supporting a modular and removable transfer seat (wheelchair). However, it is respectfully submitted that the Examiner fails to consider several recited features of the claimed invention. For instance, the Examiner fails to show how Czech et al. teaches a transfer seat supported by the extension arm assembly for directly supporting a user, as claimed. The Examiner asserts that Czech et al. teaches this recited feature by showing a wheelchair on a platform 18. This alleged teaching by Czech et al. clearly differs from the

claimed transfer seat supported by the extension arm assembly for directly supporting a user. However, to emphasize this difference, Applicant has amended claims 2 and 8 to recite a transfer seat supported by the extension arm assembly for directly supporting a user seated thereon. It is respectfully submitted that Czech et al. does not claim, disclose, or even suggest such a feature. Claims 2 and 8 should therefore be allowable for at least this reason.

The Examiner also fails to show how Czech et al. teaches an extension arm assembly that is operative to raise and lower a transfer seat such that the transfer seat may be positioned substantially level with the vehicle seat, as claimed. Indeed, the Examiner fails to even mention how Czech et al. might show or even suggest this recited feature. Even so, to emphasize this difference, Applicant has amended claims 2 and 8 to recite an extension arm assembly that is operative to raise and lower a transfer seat such that the transfer seat may be positioned substantially adjacent to and level with a sitting portion of the vehicle seat. It is respectfully submitted that Czech et al. does not claim, disclose, or even suggest such a feature. Claims 2 and 8 should therefore be allowable for at least this reason.

At this point it should be noted that claims 9 and 10 have been added to cover the recited feature of the extension arm

assembly comprising telescoping inner and outer members, which is not claimed, disclosed, or even suggested by Czech et al.

At this point it should be noted that claims 11-15 have been added to depend from claim 8 in a manner similar to claims 3-7 depending from claim 2.

Claims 3-7 and 9-15 are dependent upon one of independent claims 2 and 8. Thus, since independent claims 2 and 8 should be allowable as discussed above, claims 3-7 and 9-15 should also be allowable at least by virtue of their dependency on independent claims 2 and 8. Moreover, these claims recite additional features which are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination.

In view of the foregoing, it is respectfully requested that the aforementioned anticipation rejection of claims 2-8 be withdrawn.

II. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the

present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

Respectfully submitted,

Thomas E. Anderson
Registration No. 37,063

Thomas E. Anderson
8707 Seven Locks Road
Bethesda, Maryland 20817
Telephone: (301) 365-4042
Date: December 10, 2004

APPENDIX A

1 (cancelled).

2 (Currently Amended). A lifting apparatus for transferring a user to and from a seat of a vehicle, the apparatus comprising:

a mounting and support assembly for attachment to a chassis of the vehicle;

an extension arm assembly supported by the mounting and support assembly such that the extension arm assembly is located substantially behind the vehicle seat; and

a transfer seat supported by the extension arm assembly for directly supporting a user seated thereon;

wherein the extension arm assembly is operative to raise and lower the transfer seat such that the transfer seat may be positioned substantially adjacent to and level with a sitting portion of the vehicle seat.

3 (Previously Presented). The apparatus of claim 2, further comprising:

a support member attached between the extension arm assembly and the transfer seat.

4 (Previously Presented). The apparatus of claim 3, wherein the support member pivots about a substantially horizontal axis

between a substantially horizontal position and a substantially vertical position.

5 (Previously Presented). The apparatus of claim 4, wherein the transfer seat pivots about a substantially horizontal axis when the support member is in its substantially horizontal position and about a substantially vertical axis when the support member is in its substantially vertical position, such that the transfer seat pivots between a substantially horizontal seating position and a substantially vertical stowed position when the support member is in its substantially horizontal position.

6 (Previously Presented). The apparatus of claim 2, wherein the transfer seat is modular and removable.

7 (Previously Presented). The apparatus of claim 2, wherein the vehicle seat is located adjacent a doorway of the vehicle.

8 (Currently Amended). A lifting apparatus for transferring a user to and from a seat of a vehicle, the apparatus comprising:

a mounting and support assembly for attachment to a chassis of the vehicle;

an extension arm assembly supported by the mounting and

support assembly such that the extension arm assembly is located substantially in front of the vehicle seat; and

a transfer seat supported by the extension arm assembly for directly supporting a user seated thereon;

wherein the extension arm assembly is operative to raise and lower the transfer seat such that the transfer seat may be positioned substantially adjacent to and level with a sitting portion of the vehicle seat.

9 (New). The apparatus of claim 1, wherein the extension arm assembly comprises telescoping inner and outer members.

10 (New). The apparatus of claim 8, wherein the extension arm assembly comprises telescoping inner and outer members.

11 (New). The apparatus of claim 8, further comprising:

a support member attached between the extension arm assembly and the transfer seat.

12 (New). The apparatus of claim 11, wherein the support member pivots about a substantially horizontal axis between a substantially horizontal position and a substantially vertical position.

13 (New). The apparatus of claim 12, wherein the transfer seat pivots about a substantially horizontal axis when the support member is in its substantially horizontal position and about a substantially vertical axis when the support member is in its substantially vertical position, such that the transfer seat pivots between a substantially horizontal seating position and a substantially vertical stowed position when the support member is in its substantially horizontal position.

14 (New). The apparatus of claim 8, wherein the transfer seat is modular and removable.

15 (New). The apparatus of claim 8, wherein the vehicle seat is located adjacent a doorway of the vehicle.